

CHAPTER 2500

RULES OF PRACTICE AND PROCEDURE FOR THE POLICE AND FIREFIGHTERS RETIREMENT AND RELIEF BOARD

2500 BOARD COMPOSITION

2500.1 The Board shall be composed of the following:

- (a) Members and alternates appointed by the Mayor from among persons who are employees of the District of Columbia Government: one member and alternate, each from the District of Columbia Office of Personnel, Office of the Corporation Counsel, Department of Human Services, Metropolitan Police and Fire Departments; and
- (b) Two (2) members, one of whom shall be a physician, appointed from among persons who are not officers or employees of the District of Columbia Government.

2500.2 The member and the alternate appointed from the Department of Human Services shall both be medical officers.

2500.3 The member appointed from the Office of Personnel shall serve as Chairperson of the Board, and, in his or her absence, the member's alternate shall serve as Chairperson; and in the absence of both, the member or alternate appointed from the Office of the Corporation Counsel shall serve as Chairperson.

2500.4 A quorum shall consist of any five (5) principals or designated alternates, provided that one (1) of the five (5) present shall be the Chairperson or alternate as designated in §2500.3.

2501 BOARD MEETINGS

2501.1 The Board shall meet as many times each month as it deems necessary to consider any of the following:

- (a) The retirement and related cases of members and retired members of the Metropolitan Police and Fire Departments, D.C., the United States Park Police, and those eligible members of the United States Secret Service;
- (b) Applications for the relief of survivors of members or retired members of the organizations; and
- (c) Applications for lump sum payment benefits provided in cases of performance-of-duty death.

2501 BOARD MEETINGS (Continued)

2501.2 Meetings shall be held on Thursdays or on any other day as the Board deems necessary.

2501.3 The Board shall meet at 9:00 a.m., in the hearing room (room 326), at 613 "G" Street, N.W., Washington, D.C. 20001, unless otherwise determined.

2502 WAIVER OF RULES

2502.1 The Chairperson (or the Board), for good cause shown, may waive, in his or her or its discretion, and in the interest of justice or to prevent hardship, any of the provisions of these rules in any proceeding.

2503 REPRESENTATION

2503.1 An applicant appearing or having the right to appear before the Board at a hearing shall have the right to be represented by an attorney or a non-legal representative of the applicant's own choosing.

2503.2 If it appears to the Board that the issue or facts in the matter before it are so involved or intricate that, in the interest of justice, or conservation of time, or of facilitating the preparation of an adequate record, an applicant should be represented by an attorney, the Board may urge the applicant to procure the services of any attorney, and, if agreeable with the applicant, it shall allow him or her a reasonable period of time in which to do so.

2503.3 The Board shall, in any case in which an applicant represents himself or herself, or is represented by a non-legal representative, take such action as may reasonably be necessary to insure that all information material to the case be developed to the fullest extent possible, commensurate with the Board's function of sitting as an impartial body.

2503.4 Applicants, expert witnesses, and other persons giving testimony or having the right to appear before the Board shall have questions directed to them first by members of the Board, then followed by counsel or representatives for the applicant, or as may otherwise be determined.

2504 EXTENSION OF TIME

- 2504.1 Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, for good cause, be extended or shortened by the Board with notice to all parties.

2505 SERVICE OF PAPERS, METHODS, PROOF

- 2505.1 Any papers required to be served upon a party shall be served upon him or her or upon the representative designated by him or her, or by law, to receive service of papers. Service is deemed effected upon receipt of papers by a party when the party is not represented by counsel. When a party is represented by counsel, service shall be deemed effected upon receipt of papers by the party's designated counsel of record, unless otherwise ordered by the Board.

- 2505.2 Service of papers may be made in the following ways:

- (a) By personal delivery;
- (b) By mail;
- (c) By telegraph;
- (d) By mailgram; or
- (e) As otherwise authorized by law.

- 2505.3 Service upon a party is deemed complete, when the following occurs:

- (a) By personal delivery, on handing the paper to the person or leaving it at his or her office with any person in charge, or if there is no one in charge, leaving it at his or her place of residence with some person of suitable age and discretion then residing therein;
- (b) By telegraph, or mailgram when deposited with a telegram company, properly addressed and with charges prepaid;
- (c) By mail, on deposit in the United States mail, properly stamped and addressed; or
- (d) By conformity with an order of the Board made in any proceeding.

2505 SERVICE OF PAPERS, METHODS, PROOF (Continued)

- 2505.4 Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown and may be made in any of the following ways:
- (a) Written acknowledgement of the party served or his or her representative;
 - (b) The certificate of the representative if he or she has made the service;
 - (c) A return receipt if served by registered or certified mail; or
 - (d) The certificate of the person making the service.

2506 PROCEEDINGS NOT PUBLIC

- 2406.1 In the absence of a specific request by an applicant (for retirement or other benefits) for a public hearing, hearings and other proceedings before the Board shall not be open to the public.

2507 SCHEDULING OF HEARINGS

- 2507.1 Applications or recommendations for retirement, continued eligibility, or relief may be considered at the earliest possible time following their date of submission to the Board.
- 2507.2 Persons whose cases are scheduled to be heard by the Board shall be notified of the date, time, and location at least fourteen (14) calendar days in advance of the hearing, except that thirty (30) days' advance notice shall be given in the case of a hearing on the retiree's continued eligibility for disability annuity payments. Any person may waive the advance notice requirement, in writing, if he or she so desires.

2508 CONTINUANCES

- 2508.1 A hearing scheduled to be conducted by the Board shall not be delayed by a motion for a continuance unless the motion is made at least seven (7) days before the date on which the hearing is scheduled to be held, excluding Saturdays, Sundays or legal holidays, and, in the opinion of the Chairperson, or any person designated by him or her, the motion sets forth good and sufficient cause for the continuance.

2508 CONTINUANCES (Continued)

- 2508.2 Conflicting engagements of counsel, absence of counsel, or the employment of new counsel shall not be regarded as good cause for continuance, unless set forth in a motion filed promptly after notice of the hearing has been given.

2509 TESTIMONY

- 2509.1 All testimony at hearings before the Board shall be under oath or affirmation.

2510 SUBPOENAS

- 2510.1 The Board, on its own initiative or upon written request of an applicant, retiree, or his or her designated representative, may issue subpoenas to compel witnesses to appear and testify or to produce records, papers, books or other documents with regard to matters within the jurisdiction of the Board.
- 2510.2 Any applicant, retiree, or his or her designated representative requesting issuance of a subpoena shall be responsible for the service thereof.
- 2510.3 All requests shall be in writing and shall specify with particularity the testimony desired, the records, papers, books, or other documents, and the facts expected to be proven thereby.
- 2510.4 The Board may determine the relevancy or materiality of any proposed testimony, records, papers, books, or other documents prior to the issuance of a subpoenas.
- 2510.5 Subpoenas shall be issued in the name of the Board.
- 2510.6 Witnesses, other than those employed by the District of Columbia Government, shall be entitled to the same fees as are paid witnesses for attendance before the Superior Court of the District of Columbia, although not required to be tendered in advance.
- 2510.7 Subpoenas shall be enforceable in the manner prescribed in §4-603, D.C. Code, 1981 ed., to the same extent as subpoenas of the Superior Court of the District of Columbia.
- 2510.8 Subpoenas shall be signed by the Chairperson for the Board.

2511 EVIDENCE

- 2511.1 Evidence shall be taken in conformity with §§1-1509(b) and 4-533, D.C. Code, 1981 ed.
- 2511.2 All medical information shall be received by the Board at least fifteen (15) days prior to the date of the hearing to allow for an evaluation by the Board of Police and Fire Surgeons. All other information, documents, data, and relevant material shall be received by the Board at least ten (10) days prior to the date of the hearing.

2512 TRANSCRIPT OF HEARING

- 2512.1 Hearings shall be recorded under the supervision of the Board.

2513 MAINTENANCE OF DECORUM AND GOOD ORDER

- 2513.1 Decorum and good order shall be maintained at all times during hearings, and the Chairperson may, in the enforcement thereof, exclude or have removed from the hearing room any person violating any reasonable order of the Chairperson.
- 2513.2 Attorneys and other representatives may, for contumacious conduct, after having been afforded an opportunity to be heard thereon, be barred from further participation in a proceeding.

2514 CONSIDERATION OF CASES BY THE BOARD, EXCEPT FOR D.C. POLICE OFFICERS AND FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980

- 2514.1 This section shall apply to consideration of cases by the Board, except for D.C. Police Officers.
- 2514.2 In considering the cases presented to the Board, the Board shall do the following:
- (a) Make a determination regarding eligibility for disability retirement in cases involving injury or disease;
 - (b) When disability is found to exist, determine whether or not the disability is duty-related;
 - (c) Determine eligibility in optional retirement cases;

2514 **CONSIDERATION OF CASES BY THE BOARD, EXCEPT FOR D.C. POLICE OFFICERS AND FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980**
(Continued)

2514.2 (Continued)

- (d) Decide all matters pertaining to survivor's relief and lump sum performance-of-duty benefits;
- (e) Determine, on the basis of periodic medical evaluation, the continuing eligibility of an annuitant;
- (f) Determine, on the basis of annual income, the continuing eligibility of an annuitant;
- (g) Determine total disability, and the percentage thereof;
- (h) Determine the effective date of disability retirement; and
- (i) Make any other findings as deemed necessary to carry out its function.

2515 **CONSIDERATION OF CASES BY THE BOARD: D.C. POLICE OFFICERS AND FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980**

2515.1 This section shall apply to the consideration of cases by the Board for D.C. Police Officers and Firefighters.

2515.2 The Board shall give due regard to the following in considering and evaluating percentages of disability:

- (a) Due regard shall be given to the nature of the injury or disease, as follows:
 - (1) The physical or mental impairment, limitations, and restrictions shall be described and set forth in writing or by expert testimony, or both;
 - (2) The medical prognosis regarding the injury or disease shall be elicited and weighed;
 - (3) The job limitations and restrictions shall be a factor; and
 - (4) Other aspects of the injury or disease that may affect employment, both within and outside the department, that is, limited duty, kind of regular duty assigned (contact or non-contact), permanent, partial, and total disability;

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**CONSIDERATION OF CASES BY THE BOARD: D.C. POLICE OFFICERS AND
FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980** (Continued)

2515.2 (Continued)

(b) Due regard shall be given to the percentage of impairment, as follows:

- (1) A percentage-of-impairment figure assigned and reported by the Board of Police and Fire Surgeons shall be a factor;
- (2) The percentage of disability to be assigned by the Board shall not automatically be equivalent to the percentage of impairment as determined by the Board of Police and Fire Surgeons. The percentage, or severity, of the physical or mental impairment shall be only one (1) factor for determining the wage-earning capacity of a disabled Police Officer or Firefighter. An earning capacity while in disability retirement shall be determined and compared to the pay for the position(s) held by the Police Officer or Firefighter at the time of retirement; and
- (3) The percentage-of-impairment figure assigned by the Board of Police and Fire Surgeons, along with expert testimony and opinion of witnesses, shall assist the Board in determining specific job limitations, physical or mental restrictions, and wage-earning capacity.

(c) Due regard shall be given to the position held immediately prior to retirement, as follows:

- (1) The position held shall be considered in applying the physical or mental disability rating; and
- (2) The physical or mental and job limitations and restrictions as a result of the impairment and wage-earning capacity shall be weighed for or against disability.

(d) Due regard shall be given to the age and years of service, as follows:

- (1) The extent to which a permanent impairment may affect a Police Officer or Firefighter can vary depending on age. Therefore, the age, in terms of impairment and employability in retirement, shall be considered on that basis; and

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**CONSIDERATION OF CASES BY THE BOARD: D.C. POLICE OFFICERS AND
FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980 (Continued)**

2515.2 (Continued)

- (2) Years of service as to knowledge, skills, and experiences gained in employment shall be considered in terms of their transferability to the open labor market.

(e) Due regard shall be given to other factors, as follows:

- (1) Education, training, and special skills shall help the Board in determining wage-earning capacity;
- (2) The qualifications for wage-earning capacity while in retirement shall be reviewed and examined. Whenever applicable for a given position, the minimum qualification requirements in terms of education, training, and job experiences shall be examined and the qualifications of the disabled retiree shall be measured against them;
- (3) The availability of suitable employment shall be coordinated with the D.C. Department of Employment Services and the employment services of Northern Virginia and Montgomery and Prince Georges Counties;
- (4) Jobs that the disabled retiree is qualified for shall exist in the open labor market in the commuting area--the Washington Metropolitan area--in order for employment to be deemed available;
- (5) The scarcity of vacancies or the inability of the disabled retiree to secure employment, for whatever reason, shall not require an inference that the disabled retiree does not have the capacity to earn the wages for a determined position;
- (6) The D.C. Department of Employment Services shall be the source of availability of jobs and basic salaries for those jobs;
- (7) The aptitude for acquiring new skills, the ability to adjust to a handicap and other personality conditions, and the impact the presence of the injury or disease could have on the employability of a disabled retiree shall be considered; and
- (8) The Board shall not be an employment agency. It shall take no responsibility for getting or securing employment for anyone.

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**CONSIDERATION OF CASES BY THE BOARD: D.C. POLICE OFFICERS AND
FIREFIGHTERS HIRED AFTER FEBRUARY 15, 1980 (Continued)**

2515.3 The percentage of disability formula shall be governed by the following:

- (a) The criteria for determining percentages of disability or loss of wage-earning capacity shall be considered in the context of the application of §2515.1 for each individual case. No one criteria shall be considered by the Board as controlling or standard. The combined result of the application of §2515.1 shall produce the final determination by the Board;
- (b) In order to compute the percentage of disability and the amount of the retirement annuity by use of the formula in §2515.2(e), the following two (2) basic salary figures shall be determined:
 - (1) The basic salary for the position last occupied by the Police Officer or Firefighter; and
 - (2) The basic salary for the position he or she has the capacity to occupy while in disability retirement.
- (c) The two (2) basic salaries shall be comparable in that they shall represent the salaries of each position at the same point in time--at the time of the Board's final decision;
- (d) The Board, after weighing the physical and mental condition(s) and economic and other factors, shall render a final decision as to the extent to which a disability affects a Police Officer's or Firefighter's ability to earn wages while in disability retirement, pursuant to §§4-615(b) and 4-616(e), D.C. Code (1981);
- (e) The formula "The quantity 'A minus B' divided by A equals C, and C multiplied by D equals E," shall be used, given the following:
 - (1) "A" shall equal the current salary for the position held by the Police Officer or Firefighter;
 - (2) "B" shall equal the current salary for the position the disabled Police Officer or Firefighter has the capacity to occupy;
 - (3) "C" shall equal the percentage of disability;
 - (4) "D" shall equal seventy percent (70%) of the Police Officer's or Firefighter's basic salary; and

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**CONSIDERATION OF CASES BY THE BOARD: D.C. POLICE OFFICERS AND
FIREFIGHTER HIRED AFTER FEBRUARY 15, 1980 (Continued)**

2515.3 (Continued)

- (5) "E" shall equal the amount of the annuity; Provided, that the amount of the annuity shall not be less than forty percent (40%) of the basic salary at the time of retirement in a performance-of-duty case and not less than thirty percent (30%) in a not-in-performance-of-duty case.

- (f) Determination shall be made on an individual case basis to allow for similar physical or mental impairment of different individuals, which may produce differing losses of wage-earning capacity or percentages of disability.

2515.4

Once the percentage of disability has been determined by the Board's final decision, the percentage shall not be changed unless it is subsequently shown, by medical evidence presented at annual reviews, that the degree of impairment has increased or decreased, or that the annuitant's actual annual earnings fairly represent his or her earning capacity.

2516

APPEARANCE BY PERSONS APPLYING FOR RETIREMENT

2516.1

Each person appearing before the Board for retirement consideration shall be given full opportunity to present the testimony under oath or affirmation, and to produce the witnesses to give testimony under oath or affirmation, as he or she may desire, subject to the limitations contained in §2510 of this chapter.

2516.2

Appearances before the Retirement Board shall be made in person unless the Board of Surgeons presents medical testimony or evidence, to the satisfaction of the Board, that the person is unable to appear because of the extreme severity of his or her physical or mental condition.

2516.3

The Board may, in the circumstances cited in §2516.2, either consider the case in the member's absence, on the basis of the medical findings presented by the Board of Surgeons, and any other pertinent information submitted by the member or contained in his or her records, or visit and examine the member at the place that is reasonably convenient to visit or cause to have him or her examined by an approved medical expert nearby.

2516 APPEARANCE BY PERSONS APPLYING FOR RETIREMENT (Continued)

2516.4 Applications for optional retirement shall be considered by the Board on the basis of the following:

- (a) The applicant's length of service;
- (b) The medical report(s) presented by the Board of Surgeons concerning the physical and mental condition of the applicant; and
- (c) Any other pertinent information submitted by the applicant or contained in his or her record.

2516.5 Applicants for optional retirement shall not be required to make a personal appearance before the Board but may be so required at the Board's discretion. However, those who express a desire to appear before the Board, personally, may do so.

2517 APPEARANCE BY OTHER APPLICANTS FOR RELIEF

2517.1 In lieu of personally appearing before the Board, individuals applying for relief for themselves and/or on behalf of surviving children shall furnish to the Board satisfactory evidence of their identity, marriage, birth, and legal responsibility for the children, and student status of the children, when appropriate, at the time of the death of a member.

2517.2 With respect to the application for the lump sum payment benefit, provided in cases of performance-of-duty death, evidence of dependency, including the cost of care and portion paid by deceased member, shall also be furnished.

2517.3 The Board shall consider applications for relief from the documented evidence furnished but may, in its discretion, require any individual(s) making the application to personally appear before it.

2517.4 In considering applications for the lump sum payment benefit, the Board shall also consider the investigative report of the circumstances regarding the death involved. An appropriate official of the department or agency concerned shall personally present the report to the Board. The official shall be someone other than the member or alternate member serving the Board at the time the application is being considered.

2517.5 Any applicant for relief, who expresses a desire to do so, may personally appear before the Board.

2518 EXAMINATION OF RECORDS

- 2518.1 Any applicant for retirement, or retiree ordered before the Board for review of continued disability annuity payments, or his or her representative, shall be permitted to see and examine his or her service and sick records, investigative reports, the transcript of the record of previous hearings, if any, or any other documents pertinent to his or her case.
- 2518.2 If the applicant for retirement has knowledge of any other paper or document contained in the file kept by his or her department or agency, and desires its production before the Retirement Board at the time of hearing, he or she shall give written notice, at least seven (7) full days before the date of the hearing, excluding Saturdays, Sundays or legal Holidays, expressing the desire and designation of the particular paper or document to the head of the department or agency.
- 2518.3 The department or agency shall be required to produce the requested paper(s) or document(s) and make it available at the time of the hearing.
- 2518.4 The Board shall, subject to the restrictions governing disclosure of information, receive or reject the paper(s) or document(s) as evidence.
- 2518.5 The examination of these records by the applicant or his or her attorney or representative shall be permitted during the regular office hours of any regular work day.
- 2518.6 If the applicant does not appear personally to make the examination, his or her attorney or representative shall present a written authorization from the applicant requesting permission to make the examination in his or her place.

2519 ANNUAL MEDICAL EXAMINATION OF RETIRED ANNUITANT

- 2519.1 Each annuitant retired for disability shall appear before the Board of Surgeons, or before a medical specialist approved by the Board of Surgeons, at least once every year until he or she shall have reached the age of fifty (50) years, for a medical examination of the disability for which he or she was retired, to determine his or her current physical and/or mental condition, unless excused from the examination by order of the Board.
- 2519.2 The Board shall receive all medical and psychiatric reports through and from the Board of Surgeons and, upon review of the reports and recommendations made by the Board of Surgeons, determine the current status of the annuitant's disability and make a decision as to the disposition of the case.

2519 ANNUAL MEDICAL EXAMINATION OF RETIRED ANNUITANT (Continued)

- 2519.3 The Board may, in its discretion and in order to assist it in making a fair and just determination, require any disabled annuitant to report to the Board of Surgeons or to an outside medical consultant for an examination of the disability for which he or she was retired. Expenses incurred by an annuitant reporting to an outside consultant at the direction of the Board shall not be borne by the annuitant.
- 2519.4 In making the necessary determination with regard to the continuation of retirement eligibility of an annuitant the Board shall consider the written opinion and recommendation submitted to it by the Board of Surgeons concerning the annuitant's current physical and mental condition together with any other pertinent reports or records.
- 2519.5 An annuitant may not be required to appear before the Board in person but may be so required at the Board's discretion.
- 2519.6 If the Board finds there is sufficient evidence that the annuitant has recovered from the disability for which he or she retired, then the annuitant may be required to appear before the Board for a hearing. The expenses incurred by the appearance shall be borne by the annuitant.

2520 NOTARIZED INCOME STATEMENT

- 2520.1 Each retired annuitant under the age of fifty (50) shall file annually with the Board a notarized statement of employment and income on forms provided, or in format suggested by the Board, and shall execute a release, on a form provided by the Board for that purpose, authorizing the Board to obtain the annuitant's federal income tax returns or information contained therein from the Internal Revenue Service.
- 2520.2 Information received shall be kept confidential and shall only be used to determine the retiree's continued eligibility for disability annuity payments and shall not be redisseminated unless the retiree's prior written permission is received.
- 2520.3 All information received pertaining to an annuitant's employment and income shall be considered in determining earning capacity.
- 2520.4 Any annuitant who is retired under §4-615 or §4-616, D.C. Code (1981), and who prior to his or her retirement was an officer or member of the D.C. Metropolitan Protective Service, or the Secret Service Division, shall upon request by the Board, submit to the Board a notarized statement containing such information as may be required with respect to the gross income received from wages or self-employment, or both, as follows:

2520 NOTARIZED INCOME STATEMENT (Continued)

2520.4 (Continued)

- (a) The annuitant shall submit the required information on the form provided, or in format suggested, as appropriate; and
- (b) The annuitant shall have thirty (30) days from the date of receipt of the request to return the completed notarized information to the Board.

2520.5 After examining and evaluating information or statement submitted by any retired annuitant, the Board may require the annuitant to submit further notarized statement(s) containing additional information with respect to the income received from wages or self-employment, or both, as the Board deems appropriate.

2520.6 In the event a retired annuitant fails to submit the statement required or willfully furnishes materially false information, or when the statements raise a question of the annuitant's continued eligibility for disability annuity payments, the Board shall schedule a hearing on the matter.

2521 CESSATION OF ANNUITY

2521.1 Uniform enforcement for noncompliance with §2520 shall be applicable to all retirees, with respect to submission of notarized income statements. Any annuitant who is retired on disability under §4-615 or §4-616, D.C. Code 1981 ed., who willfully furnishes materially false information with respect to his or her income in any statement required to be submitted to the Board under §2520 shall forfeit all rights to continued disability annuity.

2521.2 For any annuitant who refuses or otherwise willfully fails to timely submit a statement required by §2520, payment of the annuity to the annuitant shall cease and the annuitant shall not be eligible to receive the annuity or any part thereof for the period beginning on the date after the final day for timely filing of the statement and ending on the date on which the Board receives the statement.

2521 CESSATION OF ANNUITY (Continued)

2521.3 For any annuitant who is retired on disability under §4-615 or §4-616, D.C. Code 1981 ed., who refuses or otherwise fails to undergo the medical examination required by §2520, payment of annuity shall cease and the annuitant shall not be eligible to receive annuity or any part thereof for any period commencing on the day following the day on which the annuitant was required to undergo examination, and ending on the date on which the annuitant undergoes examination.

2522 RETIREMENT BOARD ACTION

2522.1 When a decision is reached as to the disposition of a matter, the Board members present shall indicate their decision by signing the report of action.

2522.2 Each vote shall be final unless there is a reconsideration of the case in executive session; Provided, that no decision shall be final until a written order giving effect to the Board's decision is signed by the Chairperson.

2523 FINDINGS OF FACT AND CONCLUSIONS OF LAW

2523.1 A written decision with accompanying findings of fact and conclusions of law shall be prepared by the D.C. Office of Personnel, subject to review by the Corporation Counsel.

2523.2 A copy of the decision along with the final order shall be served upon the member, office, or retired annuitant.

2523.3 The formal order giving effect to the Board's decision shall be prepared for the signature of the Chairperson.

2523.4 Copies of the order shall be distributed to the employing department or agency, the applicant or annuitant, the accounting officer, and other involved offices.

2523.5 The original of all orders issued by the Retirement Board shall be retained by the Director of Personnel as the official record of the Board's action.

2524 INTERIM ORDER

2524.1 Upon proper written application of an officer or member, other than an officer or member not eligible for retirement, where it can be shown that delay in entering a retirement order will adversely affect the member, the Board may issue an interim order effecting a retirement.

2524.2 An interim order shall not become final, for purposes of a petition for reconsideration or an appeal, until the written decision is issued by the Board and served upon the member.

2525 PETITION FOR RECONSIDERATION

2525.1 A petition for reconsideration, rehearing or reargument may be filed by an applicant within fifteen (15) days after the receipt of the Retirement Board's decision.

2525.2 Neither the filing nor the granting of a petition shall operate as a stay of a final order unless specifically ordered by the Retirement Board.

2525.3 A stay shall be granted only upon good cause, which shall consist of unusual or exceptional circumstances.

2526 CONTENTS OF PETITION FOR RECONSIDERATION

2526.1 The petition shall state briefly and specifically the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought.

2526.2 If the petition is based in whole or in part on new matter, this shall be set forth in an affidavit and accompanied by a statement to the effect that the petitioner could not, with due diligence, have known or discovered the new matter prior to the date the case was presented to the Board for decision.

2527 ACTION ON RECONSIDERATION

2527.1 The Board, in its discretion, may permit or require oral arguments upon a petition for reconsideration.

2527.2 A petition for reconsideration shall be granted or denied by the Retirement Board within fifteen (15) days after the filing of the petition.

2528 EFFECTIVE DATE OF RETIREMENT

2528.1 Any officer or member of the Metropolitan Police force or the Fire Department who completes twenty (20) years of service (or twenty-five (25) years of service and attains the age of fifty if appointed after February 15, 1980), after giving at least sixty (60) days written advance notice to his or her department or agency head, stating his or her intention to retire optionally (Optional Retirement), and stating the date on which he or she will retire, and if all other conditions are met, shall be retired effective on the date requested.

2528.2 Any member of the Metropolitan Police force or the Fire Department having reached the age of sixty (60) years shall, in the discretion of the Mayor, be retired.

2528.3 The effective date of retirement for officers and members who retire on disability shall be determined by the Board and made known upon the issuance of the final retirement Order.

2529 FINAL ADMINISTRATIVE REMEDY

2529.1 The final action of the Board in cases coming before it shall constitute the final administrative action within the District of Columbia Government, except in matters and cases of Police and Fire Chiefs, whose cases shall be decided by the Mayor.

2529.2 An appeal from final administrative action, including a decision of the Mayor, may be taken to the District of Columbia Court of Appeals within the time periods as are specified in the rules of the Court.

2599 DEFINITIONS

2599.1 Terms defined in the Police and Firefighters Retirement and Disability Act, §4-521, et seq., D.C. Code, 1981 ed., shall have the same meanings when used in these regulations. In addition, when used in this Chapter, each of the following terms shall have the meaning ascribed:

Board - the Police and Firefighters Retirement and Relief Board as established in Organization Order No. 48, Commissioner's Order No. 74-199, as the same may be amended from time to time. (D.C. Register., Volume 23, No. 17, October 22, 1976).

Board of Surgeons - the Board of Police and Fire Surgeons as established in Commissioner's Order No. 70-369, as amended, Commissioner's Order 74-259, December 20, 1974 (21 DCR 1621, January 20, 1975).

Disability - any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused in whole or in part by an impairment, i.e., economic disability.

Impairment - any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved, i.e., physical impairment.

Wage-earning capacity - the ability to engage in gainful activity.

